

Message Text

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13

ACTION L-03

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FM AMEMBASSY LILONGWE

TO SECSTATE WASHDC 064

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E.O. 11652: N/A

TAGS: PGOV, PFOR, MI

SUBJECT: MALAWI LAWS ON QUESTIONABLE PAYMENTS

REF: STATE 094647

1. MALAWI HAS NO LAW OR REGULATIONS REQUIRING DISCLOSURE OF PAYMENTS MADE TO OR FOR THE BENEFIT OF GOVERNMENT OFFICIALS (PARA 2B REFTEL), BUT SUCH PAYMENTS OR BENEFITS ARE ILLEGAL UNDER LAWS OF MALAWI, PENAL CODE, CHAPTER X (CORRUPTION AND THE ABUSE OF OFFICE), SECTIONS 90 - 95 (PARA 2A REFTEL).

THESE SECTIONS STATE THAT PERSONS IN THE PUBLIC SERVICE WHO DEMAND OR ACCEPT PROPERTY OR BENEFITS IN RETURN FOR ACTS OR OMISSIONS OR PERSONS WHO OFFER SUCH BENEFITS SHALL BE GUILTY OF A MISDEMEANOR AND LIABLE TO IMPRISONMENT FOR SIX MONTHS TO THREE YEARS.

2. MALAWI HAS NO REGULATIONS CONCERNING INVOLVEMENT OF AGENTS IN SALES OR INVESTMENT TRANSACTIONS WITH THE GOVERNMENT UNLESS CORRUPT PRACTICES ARE INVOLVED (PARA 2C REFTEL). CORRUPT PRACTICES INVOLVING AGENTS AND SECRET COMMISSIONS ON GOVERNMENT CONTRACTS ARE GOVERNED BY CHAPTER XLI OF PENAL CODE (SECRET COMMISSIONS AND CORRUPT PRACTICES), SECTIONS 395 - 399.

THESE SECTIONS GENERALLY PARALLEL SECTIONS NOTED IN PARA 1 WITH ADDITIONAL PROVISIONS THAT PERSONS INVOLVED IN CORRUPT PRACTICES

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RELATING TO GOVERNMENT CONTRACTS SHALL BE LIABLE FOR A LARGE

FINE AND IMPRISONMENT UP TO SEVEN YEARS.

3. ANSWERS TO PARAS 2D AND 2E OF REFTEL ARE NEGATIVE AS
POLITICAL CONTRIBUTIONS TO INDIVIDUAL POLITICAL FIGURES ARE
NOT A PART OF THE MALAWI POLITICAL SYSTEM. RESPONSE TO
PARA 2F OF REFTEL IS ALSO NEGATIVE, ALTHOUGH QUESTIONABLE
PAYMENTS IN THE COURSE OF PRIVATE COMMERCIAL TRANSACTIONS,
IF THEY BECAME KNOWN, MIGHT BE CONSIDERED ILLEGAL UNDER
MALAWI'S BROAD PUBLIC SECURITY REGULATIONS.

4. COPIES OF SECTIONS OF MALAWI LAW NOTED IN PARA 1 AND 2
POUCHED TO DEPARTMENT APRIL 29.
STEVENSON

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